

**From:** [LERS, EOIR \(EOIR\)](#)  
**To:** [LERS, EOIR \(EOIR\)](#); [All of Judges \(EOIR\)](#); [BIA BOARD MEMBERS \(EOIR\)](#); [BIA ATTORNEYS \(EOIR\)](#); [All of OCIJ JLC \(EOIR\)](#); [Alder Reid, Lauren \(EOIR\)](#); [Allen, Patricia M. \(EOIR\)](#); [Baptista, Christina \(EOIR\)](#); [Barnes, Jennifer \(EOIR\)](#); [Bauder, Melissa \(EOIR\)](#); [Berkeley, Nathan \(EOIR\)](#); [BIA TEAM JLC](#); [BIA TEAM P \(EOIR\)](#); [Brazill, Caitlin \(EOIR\)](#); [Burgie, Brea \(EOIR\)](#); [Burgus, Elizabeth \(EOIR\)](#); [Carballo, Vivian \(EOIR\)](#); [Cicchini, Daniel \(EOIR\)](#); [Cowles, Jon \(EOIR\)](#); [Curry, Michelle \(EOIR\)](#); [Evans, Brianna \(EOIR\)](#); [Grodin, Edward \(EOIR\)](#); [Hartman, Alexander \(EOIR\)](#); [Kaplan, Matthew \(EOIR\)](#); [King, Jean \(EOIR\)](#); [Korniluk, Artur \(EOIR\)](#); [Lang, Steven \(EOIR\)](#); [Lovejoy, Erin \(EOIR\)](#); [Martinez, Casey L. \(EOIR\)](#); [Noferi, Mark \(EOIR\)](#); [Park, Jeannie \(EOIR\)](#); [Powell, Karen B. \(EOIR\)](#); [Ramirez, Sergio \(EOIR\)](#); [Rimmer, Phillip \(EOIR\)](#); [Rodrigues, Paul A. \(EOIR\)](#); [Rodriguez, Bernardo \(EOIR\)](#); [Rothwarf, Marta \(EOIR\)](#); [Sanders, John W. \(EOIR\)](#); [Schaaf, Joseph R. \(EOIR\)](#); [Sheehey, Kate \(EOIR\)](#); [Stutman, Robin M. \(EOIR\)](#); [Taufa, Elizabeth \(EOIR\)](#); [Vayo, Elizabeth \(EOIR\)](#); [Wilson, Amelia \(EOIR\)](#)  
**Cc:** [McHenry, James \(EOIR\)](#); [Reilly, Katherine \(EOIR\)](#); [Santoro, Christopher A \(EOIR\)](#); [Moutinho, Deborah \(EOIR\)](#); [Adams, Amanda \(EOIR\)](#); [Pease, Jeffrey \(EOIR\)](#); [Morgan, Kenosha \(EOIR\)](#); [Macri, Andrea \(EOIR\)](#); [EOIR Library \(EOIR\)](#)  
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| Policy & Case Law Bulletin  
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### Federal Agencies

#### DOJ

- [BIA Issues Decision in Matter of Sanchez-Lopez](#) — EOIR

27 I&N Dec. 256 (BIA 2018)

The offense of stalking in violation of section 646.9 of the California Penal Code is not “a crime of stalking” under section 237(a)(2)(E)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(E)(i) (2012). [Matter of Sanchez-Lopez](#), 26 I&N Dec. 71 (BIA 2012), overruled.

- [Virtual Law Library Weekly Update](#) — EOIR

This update includes resources recently added to EOIR’s internal or external Virtual Law Library, such as Federal Register Notices, country conditions information, and links to recently-updated immigration law publications.

#### DHS

- [USCIS Announces Policy Update for Acquisition of Citizenship for Children Born Out of Wedlock](#)

On April 18, 2018, USCIS issued policy guidance to clarify certain requirements for acquisition of U.S. citizenship for children born outside the United States and out of wedlock under sections 301 and 309 of the Immigration and Nationality Act. Specifically, the update addresses changes to physical presence requirements in acquisition of citizenship cases in accordance with the U.S. Supreme Court decision in *Sessions v. Morales-Santana*, 137 S. Ct. 1678 (2017), as well as clarifications regarding what may qualify as a father’s written agreement of financial support.

### Supreme Court

#### OPINION

- [Sessions v. Dimaya](#)

No. 15-1498, 2018 WL 1800371 (U.S. Apr. 17, 2018) (Aggravated Felony-Crime of Violence)

The Supreme Court upheld the judgment of the Ninth Circuit, determining that 18 U.S.C. § 16(b), as incorporated by the Act's definition of "crime of violence" under INA § 101(a)(43)(F), is unconstitutionally vague. For a detailed summary, see Policy & Case Law Highlights - April 17, 2018.

CERT. DENIED

- [Quintero v. Sessions](#)

No. 17-1145, 2018 U.S. LEXIS 2295 (U.S. April 16, 2018)

Questions Presented: 1) Whether the U.S. Supreme Court precedent in *Holland v. Florida*, 560 U.S. 631 (2010) precludes the Fifth Circuit Court of Appeals from applying a rigid, inflexible standard for assessing equitable tolling requests in immigration cases because, as *Holland*, 560 U.S. at 650, provides, the "exercise of a court's equity powers . . . must be made on a case-by-case basis," and "'flexibility' . . . enables courts 'to meet new situations [that] demand equitable intervention, and to accord all the relief necessary to correct . . . particular injustices;'" and 2) Whether the U.S. Supreme Court precedents in *Heckler v. Chaney*, 470 U.S. 821 (1985), *Kucana v. Holder*, 558 U.S. 233 (2010) and *Mata v. Lynch*, 135 S. Ct. 2150 (2015) provide ample authority that federal judicial review of the sua sponte motions to reopen is available, because discretionary restrictions to such review were only articulated in the agency regulations and were not expressly precluded by Congress in the statute, as well as in light of the fact that the agency itself provides a meaningful standard for such review under "exceptional circumstances" test.

- [Costa v. Sessions](#)

No. 17-1231, 2018 U.S. LEXIS 2314 (U.S. April 16, 2018)

Question Presented: Did the Board of Immigration Appeals commit legal error in affirming the Immigration Judge's holding that religion was not at least one central reason for an asylum applicant's persecution when neither the decision of the Immigration Judge nor the Board considered the persecutors' disparagement of the applicant's religion during the act of persecution in making those holdings.

#### Fourth Circuit

- [Ramirez v. Sessions](#)

No. 16-2444, 2018 WL 1802391 (4th Cir. Apr. 17, 2018) (CIMT)

The Fourth Circuit granted the PFR, determining that obstruction of justice in violation of Va. Code § 18.2-460(A) categorically is not a crime involving moral turpitude (CIMT) because it does not require "fraud, deception, or any other aggravating element that shocks the public conscience." The court explained that "[i]t simply cannot be that verbal protests against law enforcement and refusals to comply are categorically immoral."

#### Sixth Circuit

- [Gutierrez v. Sessions](#)

No. 17-3749, 2018 WL 1788053 (6th Cir. April 16, 2018) (Aggravated Felony-Theft; Burden of Proof)

The Sixth Circuit denied the PFR, concluding that the petitioner's conviction for credit card theft in violation of Va. Code § 18.2-192(1) barred relief as an aggravated felony theft offense pursuant to INA § 101(a)(43)(G), notwithstanding the undisputed divisibility of Va. Code § 18.2-192(1). Collecting cases that highlight the circuit split on the issue, the Sixth

Circuit held that where grounds for mandatory denial of relief may apply, an applicant for relief does not meet his or her burden to demonstrate eligibility if, when applying the modified categorical approach, the conviction record is inconclusive as to the applicable portion of a divisible statute.